

### **REMARKS**

Claims 1-4, 23 and 24 are pending in this application.

Claims 1 and 24 have been amended. Claim 4 has been canceled without prejudice. No new matter has been added by the present amendment.

Applicants gratefully acknowledge the Examiner's indication that claim 23 is allowed and claim 4 would be allowable if rewritten in independent form.

#### **Rejections under 35 U.S.C § 102:**

Claims 1-3 stand rejected under 35 U.S.C § 102 (b) as anticipated by Koubuchi et al. (US2001/0022399).

Applicants respectfully disagree with the examiner's rejection. However, to place the present application in condition for allowance, applicants have incorporated allowable dependent claim 4 into claim 1.

Claims 2 and 3 are also allowable due to their dependency on the base claim 1.

Claim 24 stands rejected under 35 U.S.C. 102(b) as being anticipated by Kuroda (US2002/0061608).

Amended claim 24 recites, *inter alia*, that marking patterns are smaller than dummy patterns.

Applicants respectfully submit that Kuroda does not disclose the above-claimed features. The Examiner states that Kuroda discloses dummy patterns (DP2 in Fig. 1: second dummy pattern) and marking patterns (DP1 in Fig. 1: first dummy pattern). However, in Kuroda, the first dummy patterns (DP1) are larger than the second dummy patterns (DP2). *See e.g.*, Fig. 1 of Kuroda.

Therefore, Applicants respectfully submit that claim 24 is not anticipated by Kuroda.

Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claim 24 under 35 U.S.C § 102 (b) and claim 24 is in condition for allowance.

For the foregoing reasons, the present application is believed to be in condition for allowance. The Examiner's early and favorable action is respectfully requested. The Examiner is invited to contact the undersigned if he has any questions or comments in this matter.

Respectfully submitted,



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